M-08-246

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F.# 2007R00180
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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- against -

RALPH DIFALCO,
also known as "Michael Preston,"

Defendant.

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COMPLAINT
(T. 18, U.S.C., § 1349)

EASTERN DISTRICT OF NEW YORK, SS.:

CHRISTOPHER MCKEOGH, being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation, duly appointed according to law and acting as such.

Upon information and belief, there is probable cause to believe that in or about and between 2001 and June 2006, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant RALPH DIFALCO, also known as "Michael Preston," together with others, did knowingly and intentionally conspire to devise a scheme and artifice to defraud individuals investing through Greenmill Services Corp., and to obtain money and property from these individuals, by means of false and fraudulent pretenses, representations and promises, and for the purpose of executing such scheme and artifice did transmit and cause to be transmitted in interstate commerce writings, signs, signals, pictures and sounds by wire communication.

(Title 18, United States Code, Section 1349).

The sources of my information and the grounds for my belief follow:[1]

1. Starting earlier this year, I have been actively involved in the investigation of Greenmill Services, Corp. ("Greenmill") and the defendant RALPH DEFALCO. During that time, I have reviewed numerous documents including, among other things, email correspondence between investors and a purported Greenmill representative, DEFALCO a/k/a "Michael Preston." I have also reviewed banking documents and other records gathered during the course of this investigation, and have spoken with victims/witnesses and other investigators working on this case. My information comes from all those sources.

2. Greenmill was a New York corporation with its principal place of business located at 2751 Cropsey Avenue, Brooklyn, New York. It also maintained an address at 809 Kings Highway, Brooklyn, New York.

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[1] Because the purpose of this Complaint is to set forth only those facts necessary to establish probable cause to arrest, I have not described all the relevant facts and circumstances of which I am aware.

3. I checked with the National Association of Securities Dealers ("NASD") to determine whether Greenmill was registered as a broker/dealer of securities. I learned that the NASD no longer exists. In July 2007, the Financial Industry Regulatory Authority ("FINRA") was created through the consolidation of NASD and the member regulation, enforcement and arbitration functions of the New York Stock Exchange. FINRA is the largest non-governmental regulator for all securities firms doing business in the United States. Greenmill is not and has not been registered with either NASD or FINRA.

4. In or about 2001, a victim located in California (V-1) received an unsolicited telephone call from the defendant RALPH DIFALCO, identifying himself as "Michael Preston." DIFALCO, using the name Preston, represented himself as a specialist in private placements of unlisted securities. Over the course of several months, "Preston" persuaded V-1 to invest in two small companies. V-1 invested approximately $150,000 in those companies, by several wire transfers over a period of about two years. The money was wired to an account held by Greenmill. To date, V-1 has received nothing in return for those investments.

5. In approximately December 2003, the defendant RALPH DIFALCO, using the name "Michael Preston," presented V-1 with an opportunity to invest in a "sure thing." This "sure thing"

consisted of some pre-IPO shares of a company called Turboscan. Part of the pitch was that "Preston" owed V-1 since the investments referenced in paragraph 4 had not yielded any return. During my investigation, I could find no evidence that Turboscan ever existed.

6. The defendant RALPH DIFALCO, using the name "Michael Preston," told V-1 that Turboscan was a small chain of private centers that owned patents on its ultra fast MRI machines and technology. "Preston" also told V-1 that Leo Wagner had also invested heavily in Turboscan. V-1 had met Wagner in connection with the earlier investments referenced in paragraph 4.

7. Leo Wagner confirmed to V-1 that he had invested heavily in Turboscan. Wagner told him further that "Preston" was a genius in finding and managing such deals, and that Wagner had made a substantial amount of money by investing with "Preston."

8. Starting in December 2003, and continuing through the Spring of 2004, the defendant RALPH DIFALCO, posing as "Michael Preston," continually assured V-1 that Turboscan would be liquidating soon, and that he expected to realize $12 million from the sale. V-1 would receive his share of the $12 million by virtue of his position as an early insider. Based on those assurances, V-1 invested tens of thousands of dollars over those months.

9. Over the next several months, the defendant RALPH DIFALCO, posing as "Michael Preston," began telling V-1 that more money was required for a number of reasons in order to salvage the deal. These reasons were, for example, to satisfy the demands of the inventor, to pay off bankers, or to buy out another investor. "Preston" suggested that the investor who had to be bought out had used money from organized crime figures. Over those months, V-1 invested more money.

10. In November 2004, V-1 had a three-way call with the defendant RALPH DIFALCO, posing as "Michael Preston," and Leo Wagner. During that call, both "Preston" and Wagner represented to V-1 that they could all cash out in December 2004 or January 2005. V-1 preferred January 2005, and "Preston" and Wagner both suggested waiting until January 2005 because capital gains taxes would be deferred to April 2006.

11. In about December 2004, the defendant RALPH DIFALCO, posing as "Michael Preston," told V-1 that he needed about $40,000 from him and $40,000 from Leo Wagner to pay the bonuses to the brokers who were placing his and Wagner's shares of Turboscan. Wagner told V-1 that they were not dealing with ordinary investment bankers and circumstances, that he had similar requests from "Preston" over the years, and that the bonuses were not in fact related to the actual sale of Turboscan

stock. All total, V-1 invested approximately $422,000 in Turboscan during 2004.

12. In 2005, the defendant RALPH DIFALCO, posing as "Michael Preston," continued telling V-1 that the sale of Turboscan was imminent, and also continued to represent there were various expenses and fees needed to make the deal happen. Based on these representations, V-1 invested another approximately $191,000. V-1 last heard from "Preston" in February 2006. Leo Wagner told V-1, in substance, that "Preston" was eliminated by organized crime members.

13. V-1 sent his investments via wire transfer to Greenmill's bank account at Washington Mutual Savings Bank ("WaMu") located in Brooklyn, New York. I have reviewed the records from that account, and in reviewing those records have identified several other victims of DIFALCO and Wagner's scheme.

14. Many of the defendant RALPH DIFALCO's communications with V-1 were by email, from the email address greenmillcorp@aol.com. In these email messages, DIFALCO posed as "Michael Preston." In addition, Leo Wagner sent an email message to another victim, V-2, a victim located in Utah, from this email address, providing V-2 with instructions for wiring money into Greenmill's WaMu account. This AOL account was paid from Greenmill's WaMu account. In addition, AOL's records show that the account subscriber's address was 2751 Cropsey Avenue,

Brooklyn, New York, which was also Wagner's address up until June 2006.

15. In addition, it appears that many of Leo Wagner's personal expenses were paid from Greenmill's WaMu account. From 2003 to 2006, roughly $1,000,000 of victims' money was deposited or transferred by wire into Greenmill's WaMu account; of that, Wagner converted approximately $930,000.00 to his own use through checks payable to himself, ATM withdrawals and withdrawals using withdrawal slips, and checks paying other personal expenses.

16. The defendant RALPH DIFALCO, again posing as "Michael Preston," also solicited investments from V-2. "Preston" told V-2 that he worked for Greenmill, and persuaded him to invest in various companies that promised large returns with very little risk. "Preston" instructed V-2 to wire the money directly to the Greenmill's WaMu account.

17. At one point during that time, "Michael Preston" described himself to V-2, telling him that "Preston" was about 6'2", left handed and, in 2005, was approximately 32 years old. I have seen the arrest record of the defendant RALPH DIFALCO, and he is 6'2" and is now 33 years old.

18. On many occasions, the defendant RALPH DIFALCO, posing as "Michael Preston," advised V-2 to send money via Western Union to RALPH DIFALCO, telling V-2 that DIFALCO was a business associate. According to Western Union records, there

were multiple occasions when the defendant RALPH DIFALCO picked up money that V-2 sent. In connection with those wire transfers from V-2, RALPH DIFALCO's personal information, including his address, phone number, and passport number were included in the records because he picked up the money. I have checked another data base, and have learned that the passport used at Western Union to retrieve the money V-2 sent was in fact RALPH DIFALCO's passport.

19. The defendant RALPH DIFALCO also received payments via Western Union from Leo Wagner, as well as from Wagner's wife and son. For example, between July and September 2005 DIFALCO received several payments from Wagner or Wagner's wife or son.

20. V-2 communicated with "Preston" via his cell phone, at (347) 223-8555. V-2 frequently was unable to leave messages at that number because of a full mailbox, so "Preston" gave V-2 "Preston's" home phone number, (718) 908-7984. The defendant RALPH DIFALCO is the subscriber to the phone number (718) 908-7984. On records for that number, I saw multiple calls to V-1, V-2, V-3, another Utah victim, as well as to Leo Wagner.

21. At one point, V-1 asked "Michael Preston" for his address. I went to the location that "Preston" provided to V-1. The landlord at the location had never heard of a Michael Preston and advised that no one by that name ever lived there. In addition, in reviewing the Western Union records, the bank

records and other records in this case, the name "Michael Preston" arises only in the context of victims having spoken to someone identifying himself by that name. I have been unable to locate any "Michael Preston" in this case. Based on all the above, I believe that "Michael Preston" is a fictitious name used by the defendant RALPH DIFALCO.

22. According to V-2, he invested a total of approximately $120,000 with "Michael Preston," and Greenmill, which consisted of his money and money from friends which V-2 convinced to invest along with him. V-2 has not received either any return on his investment nor has he received any of the principal back.

23. V-3 learned of Greenmill Services from his friend, V-2. V-3 also would contact "Michael Preston" via his cell phone, (347) 223-8555. V-3 invested approximately $20,500 with "Preston." "Preston" usually instructed V-3 to wire the money to Greenmill's WaMu account. On one occasion, however, "Preston" told V-3 to wire the money to a broker named RALPH DIFALCO, a business associate.

WHEREFORE, I respectfully request that a warrant be issued for the apprehension of the defendant RALPH DIFALCO so that he may be dealt with according to law.

SPECIAL AGENT CHRISTOPHER MCKEOGH
FEDERAL BUREAU OF INVESTIGATION

Sworn to before me this
13th day of March 2008

UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK